

FINAL REPORT

Physical Therapy Periodic Regulatory Evaluation Process (PREP)

From:

Physical Therapy PREP Committee

To:

Richard P. Nelson, Director
Department of Health and Human Services Regulation and Licensure

September 17, 2004

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Executive Summary

2004 Physical Therapy PREP

The Physical Therapy Periodic Regulatory Evaluation Process (PREP) Committee met seven times and made six affirmations and fifteen recommendations.

Affirmation #1: The Board of Physical Therapy utilizes and benefits from access to the American Physical Therapy Association, the Federation of State Boards of Physical Therapy, the Nebraska Physical Therapy Association, the State Board of Health and the Department to assure on-going progress toward meeting standards and achieving uniformity where possible.

Affirmation #2: The Board of Physical Therapy, in conjunction with a Federation of State Boards of Physical Therapy (FSBPT) task force, developed and tested the nation's first psychometrically sound jurisprudence examination. Nebraska requires a jurisprudence examination as part of the initial credentialing process. The jurisprudence examination is defensible and based on current laws in Nebraska and the use of the examination should continue.

Affirmation #3: Nebraska is one of thirty-nine states that allow direct access to physical therapy in the regulation of the profession. Nebraskans benefit from direct access to physical therapy services.

Affirmation #4: The Board of Physical Therapy has a good working relationship with the Department and the Nebraska Physical Therapy Association (NPTA).

Affirmation #5: The PREP Committee supports the Department's efforts to improve access to information regarding disciplinary actions.

Affirmation #6: The current method of credentialing Physical Therapists and Physical Therapist Assistants is an effective method of protecting the public.

Recommendation #1: Physical Therapists should continue to be licensed by the State of Nebraska and the Physical Therapist Assistants should continue to be certified by the State of Nebraska.

Recommendation #2: The Physical Therapy Act (not only the statutes but also the rules and regulations) should be reviewed and rewritten for clarification and to update the language. Physical Therapy is moving toward becoming a "point of entry" (potential for insurance and Medicaid/Medicare payment for services without documentation of a referral) for health care so the profession should be even more vigilant in protecting the public. The process should involve the board, stakeholders, and department.

Recommendation #3: The Physical Therapy statute (71-2814) should be changed so the supervising physical therapist is not linked with a physical therapist assistant by the individual's name. However it should be clear that the supervision ratio is one physical therapist to two physical therapist assistants at any one time.

Recommendation #4: The Department and Board of Physical Therapy should define the number of times the initial examination can be taken and define a required period of time before retaking an examination.

Recommendation #5: The Board of Physical Therapy should consider options other than continuing education for assuring continued competency.

Recommendation #6: The Board of Physical Therapy should consider jurisprudence education as part of assuring continued competency.

Recommendation #7: The Department and Board of Physical Therapy should continue participation in the national database maintained by the Federation of State Boards of Physical Therapy (FSBPT) and make every effort, as a member of the FSBPT, to urge the organization to require states participating in FSBPT to use and report to the database in cases of licensure reciprocity.

Recommendation #8: The Board of Physical Therapy should receive and review the minutes of the State Board of Health meetings.

Recommendation #9: The Department should utilize the media to routinely inform the public of patient rights, the type of public information available, and how to access the information.

Recommendation #10: Representatives of the State Department of Education, Department of HHS Finance and Support Medicaid Section, and the Board of Physical Therapy should work together to resolve the technical complexities of the Physical Therapy Practice Act caused by the current practice of paraeducators in schools doing movement exercises with students and sometimes billing the work to Medicaid as physical therapy services.

Recommendation #11: The Board of Physical Therapy should use the State Board of Health to mediate when questions arise relevant to scope of practice interface or practice overlaps with other professions.

Recommendation #12: As part of the Board of Physical Therapy's role in promoting public protection, the Board should stay informed about and provide input regarding the NCR compliance assurance proposal as the Department and the NCR Committee continue work in this area.

Recommendation #13: Temporary licensure of physical therapist and physical therapist assistant should be eliminated.

Recommendation #14: The Board of Physical Therapy should develop or adopt a tool to measure board effectiveness on an annual basis and share the information about the evaluation process with all other boards and the State Board of Health.

Recommendation #15: The Board of Physical Therapy should increase from four members to five members.

Introduction

Periodic Regulatory Evaluation Process (PREP) is a product of Nebraska Credentialing Reform (NCR). In January 1999 a report, “A Model for the Regulation of Health Care Professions by State Government in Nebraska: Part 2 of the Study Directed by LB 183” was published after many months of work by the NCR 2000 Steering Committee. The Legislative study was to result in a comprehensive design for a model system for the credentialing and regulation of health care practitioners and providers in Nebraska. The report contained 144 recommendations for the regulatory system.

The Department of Health and Human Services Regulation and Licensure has been working to implement many of the NCR recommendations. Involvement by the public, professional organizations and credentialed individuals is and continues to be important to the implementation process. The Periodic Regulatory Evaluation Process (PREP) was designed as part of the NCR implementation project for the periodic review of the regulatory system for health professions and occupations that are currently credentialed by the Department. Several recommendations in the NCR report supported PREP. Key concepts contained in the report were:

- a) A quality assurance and improvement mechanism for the credentialing or regulatory system is critical.
- b) Before a health profession is regulated and periodically thereafter, there is a need to demonstrate that such regulation is in the best interests of the public.
- c) Public and customer involvement in the evaluation of the regulatory system will be essential.
- d) A model regulatory system should protect the public from harm; provide an efficient, flexible, and adaptive regulatory process; provide uniform consistency of practice standards and regulatory procedures; and provide system accountability.

In this report the term *credentialing* encompasses licensure, registration, and certification. In the NCR implementation work there has been a great deal of discussion about the regulatory system. The *regulatory system* has been defined as the programs and procedures pertinent to the state’s administration, monitoring and discipline of persons or establishments possessing some form of license, registration or certification from the state to provide health care and/or environmental services. The terms *regulatory system* and *credentialing system* are interchangeable as used in the NCR project.

Credentialing – from the National Perspective:

Today professions credentialed by states are encouraged to support nationally accepted standards and uniform definitions. This is apparent in standards of practice definitions, school curriculums, education requirements, and examinations for initial licensure. Some

professions have developed model practice acts and encourage states to adopt the model practice acts.

Many of the national reforms have been encouraged and documented by the Pew Health Professions Commission. In December 1995 the organization published *Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century*. Since then a 1998 publication, *Strengthening Consumer Protection: Priorities for Health Care Workforce Regulation*, has expanded on issues.

Created by [The Pew Charitable Trusts](#) in 1989, the Pew Health Professions Commission has developed recommendations for change in health professions education and advocated the development of policies which respond to the nation's health care workforce needs. The Commission has initiated and sustained what many believe to be a national movement for change in the health professions education and workforce policy.

The 1995 report included ten recommendations that were a part of the orientation for the PREP Committee. From the report introduction [page vi-vii]:

“Health care workforce regulation has developed over the last century into fifty separate state systems creating a complex and often irrational organizational patchwork. The lack of uniformity in language, laws, and regulations between the states limit effective professional practice and mobility, confuses the public, and present barriers to integrated delivery systems and the use of telemedicine and other emerging health technologies...Current statutes grant broad, near-exclusive scopes of practice to a few professions and “carved-out” scopes for the remaining professions. These laws erect unreasonable barriers to high-quality and affordable care...Perhaps most seriously, regulatory bodies are perceived as largely unaccountable to the public they serve...Finally, recent reports and incidents have raised concerns that the regulatory system may not effectively protect the public. Continuing education requirements do not guarantee continuing competence. Additionally, the complaint process is often difficult for the consumer to initiate, and many complaints go without adequate investigation. Moreover, regulatory systems, in large part, have failed to implement mechanisms to evaluate their effectiveness and correct shortcomings.”

Many states have decided that now is the time to make changes, big and small, in their regulatory systems. The Nebraska credentialing reform effort will be a major change in the state's regulatory system when completed.

PREP

The Periodic Regulatory Evaluation Process (PREP) has been developed for use with professions and occupations currently credentialed by the Department of Health and Human Services Licensure and Regulation. PREP's purpose is to evaluate the impact of

the State regulatory process and outcomes on public protection and to look at the quality of that process. Based on existing statutes, PREP will review the regulatory efficiency, the current regulation, the affect of regulation, and the need for regulation of the profession or occupation. The review or evaluation may result in recommendations for how the regulatory system can be improved and/or affirmation of things well done. The Department conducted two pilot PREPs and evaluated the process once both pilots were completed. The PREP evaluation focused on identifying whether the process supported or enhanced the regulatory system and how the process could be improved.

PREP is not a sunset. A sunset is the automatic termination of regulatory boards and agencies unless legislative action is taken to reinstate them. PREP is a quality improvement mechanism for the Department and is designed to be a non-threatening and non-adversarial approach. PREP uses topic areas to focus the committee discussions. The product of PREP is a report to the Department Director that is a public document.

Quality improvement, quality assurance and continuous quality improvement are all terms used for quality. Quality not only is efficiency and effectiveness and the achievement of outcomes, but quality can also be defined as the best possible application of knowledge to be as successful as possible.

It is vital to PREP that the purpose of regulation is understood. As explained to the PREP committee, the purpose of regulation is to:

- Ensure that the public is protected from unscrupulous, incompetent and unethical practitioners;
- Offer some assurance to the public that the regulated individual is competent to provide certain services in a safe and effective manner; and
- Provide a means by which individuals who fail to comply with the profession's standards can be disciplined, including the revocation of their licenses.

Process

PREP is divided into four broad steps in the pre-pilot documentation.

Step 1: Selection of the profession or occupation to be evaluated.

The Department sent out a mailing on September 9, 2003 to the NCR Committee, State Board of Health, and contacts within the Nebraska Physical Therapy Association and other health professional associations identified by the Department. Included in that mailing were the notification of the physical therapy pilot PREP, an explanation of PREP and a request for committee member nominations by September 25, 2003.

Step 2: Appointment of PREP Committee.

The Department Director appointed ten people to serve on a PREP Committee. All members of the committee are voting members and expected to actively participate.

Physical Therapy PREP Committee Members

| | |
|---------------------------|---|
| Sam Augustine, RP, PharmD | <i>(State Board of Health representative)</i> |
| Karen Brown, PT | <i>(professional representative - board)</i> |
| Janet Coleman | <i>(public representative)</i> |
| Linda Douglas, EdD | <i>(employment site representative)</i> |
| Patricia Hageman, PT, PhD | <i>(professional representative - education)</i> |
| Charlene Kelly, RN, PhD | <i>(department representative)</i> |
| Mark Longacre, PT | <i>(professional representative)</i> |
| Tracy Milius, OT | <i>(related/associated professional representative)</i> |
| Dave Riley, CPA | <i>(public representative)</i> |
| Janet Rochford | <i>(public representative)</i> |

Step 3: Evaluation of the profession or occupation by the PREP Committee.

The Committee received research material supplied by Department staff. Sources for the research material were mostly the internet and included such web sites as the Nebraska Health and Human Services system (www.hhs.state.ne.us/crl/rcs/pt/pt.htm), related professions, the Nebraska Physical Therapy Association (www.npta.org), the American Physical Therapy Association (www.apta.org), and the Federation of State Board of Physical Therapy (www.fsbpt.org). Committee members provided additional information or clarification of research material. Self-assessment surveys completed by members of the Board of Physical Therapy and the assigned staff person were compiled and the results presented to the committee (see attachment).

Public forums were held on February 13, 2004 in Lincoln and on February 18, 2004 in North Platte. Announcements were made at both forums that written comments would be accepted through February 27 and contact information was

provided. The purpose of public forms, as explained in the pre-pilot PREP documentation, was to provide an opportunity early in the process for the PREP Committee to receive input on potential issues from interested stakeholders. There were two speakers at the Lincoln physical therapy PREP public forum and none at the North Platte physical therapy PREP public forum.

The PREP Committee conducted their work in accordance with public meeting laws. Agendas for public meetings provided an opportunity for public attendees to comment. Throughout the course of the evaluation, notices of the committee public meetings were posted and a list was maintained of those wanting to receive the meeting agenda or notification about the physical therapy PREP.

Physical Therapy PREP meetings were held:

- December 4, 2003 with 10 committee members present (included PREP orientation).
- January 9, 2004 with 9 committee members present.
- February 13, 2004 with 9 committee members present.
- April 2, 2004 with 7 committee members present.
- May 7, 2004 with 9 committee members present.
- June 4, 2004 with 7 committee members present.
- August 27, 2004 with 6 committee members (one connected by phone).

During the evaluation, the Physical Therapy PREP Committee explored and evaluated issues using eight topic areas as a focus for the discussions as explained in the “Recommendations, Affirmations, and Comments” section of this report.

Step 4: Preparation of a PREP Committee report.

The Physical Therapy PREP Committee report contains affirmations, recommendations and comments relevant to significant committee discussions.

The Physical Therapy PREP Committee decided not to hold a public hearing at its June 4 meeting. Attendance at public forums indicated that the time and effort necessary to hold a public hearing could not be justified.

This final report is submitted to the Department of Health and Human Services Regulation and Licensure Director and is a public document. The Director may use the report to make changes in the regulatory system by adjusting administrative procedures, proposing legislative action or by proposing changes to rules and regulations. Report content may be used by anyone to initiate legislation, a Scope of Practice Credentialing Review, or other action, as they deem appropriate.

Status of Physical Therapy in Nebraska During the PREP Review

Demographics

In Nebraska, as of October 1, 2003 there were:

- 1001 Active Physical Therapists with a Nebraska address
- 295 Active Physical Therapist Assistants with a Nebraska address
- 618 Active Physical Therapist Assistant Supervisors with a Nebraska address

There were two temporary physical therapists and nine temporary physical therapist assistants.

Regulatory Background

Nebraska statutes relevant to the practice of physical therapy were written in 1957. Since that time the fundamental information for physical therapy contained in the act has not been significantly rewritten. There have been technical updates and improvements to the act, for example the physical therapy fee material has been rewritten and continuing competency has been added.

The Department of Health and Human Services Regulation and Licensure has responsibility for credentialing health professions and occupations in the State of Nebraska. Credentialing means the totality of the process associated with obtaining state approval to provide health care services. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the service of a certain profession (State Statute 71-101 (9)).

The Board of Physical Therapy is appointed by the State Board of Health and consists of four people: three professionals and one public member, and advises the Department on all issues related to the regulation of physical therapy. Board members duties include, but are not limited to: administration of licensing examination; recommending the issuance or denial of licenses; changes in legislation and regulations; and complaint screening and making recommendations on disciplinary actions.

All physical therapist licenses and physical therapist assistant certificates expire on November 1 of each odd-numbered year and must be renewed. Physical therapist assistant supervisor certificates also expire on November 1 of each year and must be renewed.

A *license* grants the person a right to provide the services of the profession. This right is limited exclusively to those who have met specific requirements and educational prerequisites and who have passed some type of examination indicating that they are capable of providing services safely and effectively.

A *certification* gives the person the right to use a protected title that only those persons who have met specific requirements may possess. Under certification there is no scope of practice, and certification does not restrict practice to those who possess the credential.

Professional practice complaints can be filed with the Department's Investigations Division. All complaints are carefully reviewed by the Department to determine if legal sufficiency exists to conduct an investigation. The Department will notify complainants of the results of the review.

Physical Therapy Definitions

Physical Therapy, physical therapist and physical therapist assistant are defined in different ways by different organizations.

According to the **Nebraska Department of Health and Human Services Regulation and Licensure**, the practice of physical therapy is described as including the use of exercises and other treatments to 1) restore physical function; 2) promote fitness and health; and 3) reduce the risk of injuries. Physical therapy is the care and services provided by or under the direction of a physical therapist. Physical Therapist Assistants assist physical therapists in the practice of physical therapy. A physical therapist is licensed by the Department and a physical therapist assistant is certified by the Department. A physical therapist assistant who is certified by the Department may not commence practice until a Certificate of Approval to Supervise a Physical Therapist Assistant is issued to a licensed physical therapist.

From **Nebraska Statute 71-2801** Physical Therapy is defined as: Treatment of any bodily condition of any person by the use of the physical, chemical and other properties of heat, light, water, electricity, massage, and active or passive exercise, but does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization. (1957)

From the **Federation of State Boards of Physical Therapy (FSBPT)** proposed model practice act, the "practice of physical therapy" means:

1. Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement-related conditions in order to determine a diagnosis, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention.
2. Alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in self-care and in home, community or work integration or reintegration; manual therapy, including soft tissue and joint mobilization/manipulation; therapeutic massage; prescription, application and as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; and patient-related instruction.

3. Reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and wellness in populations of all ages.
4. Engaging in administration, consultation, education and research.

The **American Physical Therapy Association** (APTA) defines physical therapy [HOD 06-99-19-23 PHYSICAL THERAPY AS A HEALTH PROFESSION] “as a health profession whose primary purpose is the promotion of optimal health and function. This purpose is accomplished through the application of scientific principles to the processes of examination, evaluation, diagnosis, prognosis and intervention to prevent or remediate impairments, functional limitations and disabilities as related to movement and health. Physical therapy encompasses areas of specialized competence and includes the development of new principles and applications to meet existing and emerging health needs. Other professional activities that serve the purpose of physical therapy are research, education, consultation, and administration.”

The **FSBPT** Model Practice Act defines physical therapist to mean a person who is licensed pursuant to this [act] to practice physical therapy. The term “physiotherapist” shall be synonymous with “physical therapist” pursuant to this [act].

The **Nebraska** rules and regulations relating to physical therapy define a physical therapist assistant as any person who has graduated from a school for physical therapist assistants approved by the Department or who has been certified by the Board as a physical therapist assistant on or before February 25, 1981, based on equivalent training or knowledge.

The **FSBPT** Model Practice Act defines physical therapist assistant to mean a person who is [certified/licensed] pursuant to this [act] and who assists the physical therapist in selected components of physical therapy intervention.

Nebraska statute 71-2809 of the Physical Therapy Practice Act states a physical therapist assistant supervision shall mean responsible supervision and control when a licensed physical therapist assumes legal liability for the services of a physical therapist assistant. Except in cases of emergency or when appropriate duties and protocols have been outlined in the initial application and approved by the board, supervision shall require that the physical therapist shall be present on the premises of the practice site for consultation and direction of the actions of the physical therapist assistant. Such exceptions shall also include but not be limited to (a) ambulating patients, (b) applying hot packs, and (c) performing range of motion exercises. In **Nebraska statute 71-2815 (2)** The board shall grant any practicing physical therapist a certificate of approval to supervise not more than two physical therapist assistants.

Nebraska statute 71-2809 (5) of the Physical Therapy Practice Act defines a physical therapy aide to mean a nonlicensed or noncertified worker whose primary function is to perform routine tasks related to the operation of a physical therapy service, but who may assist with physical therapy related activities.

The **FSBPT** model practice act defines physical therapy aide to mean a person trained under the direction of a physical therapist who performs designated and supervised routine tasks related to physical therapy.

Evaluation

Committee Affirmations, Recommendations, and Comments

The six topic areas considered by the Physical Therapy PREP Committee are listed below. Two topic areas were added to the list and considered during this pilot phase. While there are eight topic areas, they do not “stand alone”. There is some crossover and merging of topics and issues. So, while something may be identified under one topic area, it may be a part of other topic areas. Affirmations, recommendations, and comments are listed with the first appropriate topic area.

Topic Area I Considered

I. Qualifications to obtain and maintain the credential.

- **Qualifications – standard for entry:** A regulatory system outcome is that the qualifications for the credential are sufficient to ensure the public that the physical therapist and physical therapist assistant can safely perform the work identified in the scope of practice. The standards for entry should be appropriate to protect the public and job related. The education and training required should prepare the physical therapist and physical therapist assistant for actual work. The process for validating qualification requirements for the physical therapist and physical therapist assistant should be sufficient and efficient.
- **Qualifications – measure for maintaining:** A regulatory system outcome is that physical therapy has established requirements to ensure that physical therapists and physical therapist assistants demonstrate continued competency. The measure for maintaining a credential should demonstrate continued competency. Sufficient opportunities for continuing competency should be available, varied and appropriate for the practice of physical therapy. The regulatory system and processes should consider how changes in the practice of physical therapy (new technology, new procedures) impact on continued competency.
- **Qualifications – practitioner mobility:** A regulatory system outcome is that physical therapy has processes in place to ensure public protection while supporting interstate mobility of physical therapists and physical therapist assistants. Considerations are the affect of Nebraska regulation on the physical therapist and physical therapist assistant’s ability to change practice settings to another state or from another state. Differences from state to state in physical therapy requirement for education, initial licensure and continued competency can create a system where physical therapist and physical therapist assistant mobility is complicated and discouraged.

Topic Area I Discussion

The Physical Therapy PREP Committee considered Nebraska statutes and regulations pertaining to: standards or requirements to receive an initial credential; measures or requirements for maintaining an active credential; and the mobility of a credential – does the Nebraska regulatory system have a negative impact on a credentialed individual moving from Nebraska to another state or from another state to Nebraska. The Committee looked at statutory requirements, requirements at accredited schools, how schools and curriculum are accredited and the general structure in place to assure professionals are qualified to practice the profession with the ultimate goal of public protection. It was acknowledged that the national standards for education and examination are used in the United States for physical therapist and physical therapist assistant entry-level practice.

Topic Area I Response

Affirmation #1: The Board of Physical Therapy utilizes and benefits from access to the American Physical Therapy Association, the Federation of State Boards of Physical Therapy, the Nebraska Physical Therapy Association and the State Board of Health and the Department to assure on-going progress toward meeting standards and achieving uniformity where possible.

Comment: The physical therapy organizations are actively involved in physical therapy practice development and supporting the regulatory purpose of public protection by standardizing education, evaluating physical therapy requirements, developing model language, and assuring the appropriate training and education is available and required. Schools have an accreditation process and there is a national examination in use. Initial licensure requirements are appropriate to ensure competency for entry level practice.

Affirmation #2: The Board of Physical Therapy in conjunction with a Federation of State Boards of Physical Therapy (FSBPT) task force developed and tested the nation's first psychometrically sound jurisprudence examination. Nebraska requires a jurisprudence examination as part of the initial credentialing process. The jurisprudence examination is defensible and based on current laws in Nebraska and the use of the examination should continue.

Comment: Other states are looking at this as a requirement (Nebraska was a pilot program). The importance of jurisprudence examination is also recognized by other Nebraska professional boards.

Recommendation #1: Physical Therapists should continue to be licensed by the State of Nebraska and the Physical Therapist Assistants should continue to be certified by the State of Nebraska.

Recommendation #2: The Physical Therapy Act (not only the statutes but also the rules and regulations) should be reviewed and rewritten for clarification and to update the language. Physical Therapy is moving toward becoming a "point of entry" (potential for insurance and Medicaid/Medicare payment for services without documentation of a referral) for health care so the profession should be even more vigilant in protecting the public. The process should involve the board, stakeholders, and department.

Comment: Examples of areas to address include but are not limited to:

- definition of physical therapy (consider the FSBPT Model Act definition);
- exemption language (more inclusive 71-2802);
- reciprocity, exam retake time constraints, continuing competency each are addressed below;
- Tele-communicating as applicable to physical therapy;
- Limited prescribing rights for legend drugs therapeutic intervention to be applied topically.

Recommendation #3: The Physical Therapy statute (71-2814) should be changed so the supervising physical therapist is not linked with a physical therapist assistant by the individual's name. However it should be clear that the supervision ratio is one physical therapist to two physical therapist assistants at any one time.

Comment: Perhaps the biggest danger to public protection is the lack of sufficient supervision of physical therapist assistants.

Recommendation #4: The Department and Board of Physical Therapy should define the number of times the initial examination can be taken and define a required period of time before retaking an examination.

Comment: Other states require some remedial education if an applicant fails an examination a designated number of times (typically three times). One consideration for remedial education would be whether or not the needed education is readily available.

Recommendation #5: The Board of Physical Therapy should consider options other than continuing education for assuring continued competency.

Comment: Continued competency is a newly added requirement for physical therapy. The requirement for continuing education is the type of continued competency most often documented for most professions. However, research shows that continuing education is not the most effective method to assure continued competency of professions.

Recommendation #6: The Board of Physical Therapy should consider jurisprudence education as part of assuring continued competency.

Comment: Jurisprudence examination is a requirement for an initial license, however, there is not a requirement for a periodic jurisprudence examination nor are we aware of any continued education available in this area. Some other states have a jurisprudence continuing competency requirement. It is possible that one option toward continued competency may be to have "x" number of hours of education in jurisprudence (perhaps require two hours every four years). The Board might fund a workshop in this area.

Recommendation #7: The Department and Board of Physical Therapy should continue participation in the national database maintained by the Federation of State Boards of Physical Therapy (FSBPT) and make every effort, as a member of FSBPT, to urge the organization to require states participating in FSBPT to use and report to the database in cases of licensure reciprocity.

Comment: The reciprocity process (professional moving from state to state) could be improved. The Board of Physical Therapy makes every effort to assure a physical therapist licensed in another state and moving to Nebraska is competent and has an unencumbered license. The concern is not with the process but that there is not a dependable national mechanism available. Not all states provide the available national database, managed by FSBPT, with information. Nebraska does participate and provides the appropriate information.

Topic Area II Considered

II. Balance among quality and access to care and cost containment. A regulatory system outcome is that quality of care, access to care and cost containment are balanced in the interest of public protection. These are factors in regulatory system decisions. For example, if a system is focusing on *quality* of service, it may limit *access* to services or the *cost* of the services may increase to the point of limiting access by the public. The goal is to balance the three factors so that the public is protected and the State has quality physical therapy that is accessible. The Committee discussed that the Board of Physical Therapy can address quality of service in three ways: initial credential, continued competency, and disciplinary process.

Topic Area II Responses

Affirmation #3: Nebraska is one of thirty-nine states that allow direct access to physical therapy in the regulation of the profession. Nebraskans benefit from direct access to physical therapy services.

Comment: Direct access is defined by the American Physical Therapy Association as: The right of the public to directly access physical therapists for evaluation, examination, and intervention. Direct access means that someone can walk into a physical therapist's office and be evaluated and/or receive intervention (within the guidelines of the physical therapy act) without a referral. Nebraska was the first state to permit direct access to physical therapy service (1957). The American Physical Therapy Association states that "the public is best served when access is unrestricted." It is anticipated that all or nearly all jurisdictions will permit the public to have direct access to physical therapy services in the future.

Topic Area III Considered

III. Relationship factors promoting public protection (internal/external communication and inter-relationship with other professions, the public, the department, boards) A regulatory system outcome is that the profession demonstrate positive relationships with the public and collegiality with other professions and organizations – with the focus always on public protection. This topic area looks at the need to work together for public protection in the regulatory system. Communication, interaction and interrelationships with the department, other boards, physical therapy professional associations, other professional associations and the public are a necessary part of a quality regulatory system.

Topic Area III Responses

Affirmation #4: The Board of Physical Therapy has a good working relationship with the Department and the Nebraska Physical Therapy Association (NPTA).

Recommendation #8: The Board of Physical Therapy should receive and review the minutes of the State Board of Health meetings.

Comment: Since the State Board of Health responsibilities link to many of the health professions, reviewing the minutes may assist in providing a picture of regulatory health issues in the state.

Recommendation #9: The Department should utilize the media to routinely inform the public of patient rights, the type of public information available, and how to access the information.

Recommendation #10: Representatives of the State Department of Education, Department of HHS Finance and Support Medicaid Section, and the Board of Physical Therapy should work together to resolve the technical complexities of the Physical Therapy Practice Act caused by the current practice of paraeducators in schools doing

movement exercises with students and sometimes billing the work to Medicaid as physical therapy services.

Recommendation #11: The Board of Physical Therapy should use the State Board of Health to mediate when questions arise relevant to scope of practice interface or practice overlaps with other professions.

Comment: Recent legislative changes empowered the State Board of Health in this capacity. The Board of Health will formulate procedures.

Topic Area IV Considered

- IV. Licensure issues, denials, and disciplinary processes.** A regulatory system outcome is that the profession has fair and efficient processes in place to protect the public from unsafe, incompetent or substandard care or services.
- Applications for licenses (initial or reinstatement) should contain information required to make an informed decision. The process should support public safety and protection.
 - The disciplinary process should be supportive of public safety and protection. Information for filing a complaint should be easily accessible to the public and appropriate information on disciplinary actions should be available to the public. The Board of Physical Therapy should be aware of and able to carry out its role in the disciplinary process.
 - The appropriate level of confidentiality related to these processes should be maintained.

Topic Area IV Responses

Affirmation #5: The PREP Committee supports the Department's efforts to improve access to information regarding disciplinary actions.

Comment: As part of the Department's upgrading of access to public information, some disciplinary information that is public information has been added to the Department's Web site. Eventually it will be possible to access detailed information regarding all disciplinary actions on the web site.

Recommendation #12: As part of the Board of Physical Therapy's role in promoting public protection, the Board should stay informed about and provide input regarding the NCR compliance assurance proposal as the Department and the NCR Committee continue work in this area.

Recommendation #13: Temporary licensure for physical therapist and physical therapist assistant should be eliminated.

Comment: New technology has streamlined the entire process from application to test results to such a degree that temporary licensure is unnecessary.

Topic Area V Considered

V. Regulatory structure for the profession or occupation. The regulatory system should undergo periodic evaluation to assess that the regulatory processes are effective, efficient and of high quality in support of public protection.

Topic Area V Responses

Recommendation #14: The Board of Physical Therapy should develop or adopt a tool to measure board effectiveness on an annual basis and share the information about the evaluation process with all other boards and the State Board of Health.

Comment: The Department has started using "Measuring Board Effectiveness: A Tool for Strengthening Your Board". We commend this effort to provide a wide ranging assessment of professional boards. However, the tool has a "corporate" model and while it works, it could be adapted for better use.

Recommendation #15: The Board of Physical Therapy should increase from four members to five members.

Comment: The FSBPT model practice act recommends two public board members.

Comment: This committee recognizes that the NCR Committee has a work in progress to improve the efficiency of the regulatory structure.

Topic Area VI Considered

VI. Evaluate if there are other means to ensure public protection in lieu of state government regulation. A regulatory system outcome should result in the assurance that there is a mechanism in place to protect the public adequately. The questions that should be answered are whether the current method of credentialing is the most effective method to protect the public and whether regulation imposes unnecessary barriers to the optimum utilization of personnel.

Topic Area VI Responses

Affirmation #6: The current method of credentialing Physical Therapists and Physical Therapist Assistants is an effective method of protecting the public.

Topic Area VII Considered

VII. Consider trends/future of the profession – are current statutes, rules and regulations appropriate/adequate/flexible? A regulatory system outcome is that there is the flexibility to adequately protect the public without inhibiting the profession's ability to provide the best possible options as newly developed procedures and technology improvements become available.

Comment: The Committee discussed current trends and possible physical therapy developments. Previous recommendations, including recommendation #2 to rewrite the Physical Therapy Act, should cover this area.

General Comments

Scope of Practice: All health professions and occupations must have a scope of practice. One of the goals of PREP is to evaluate effectiveness and efficiency in relation to public protection – but not to evaluate the profession or occupation scope of practice itself. However, information provided in the scope of practice must be considered in order to evaluate the regulation of the profession or occupation. The PREP Committee may note scope of practice issues in their report, but specific recommendations for changes to the scope of practice are not a part of the PREP. It is possible that one PREP recommendation may be that there should be a Scope of Practice credentialing review.

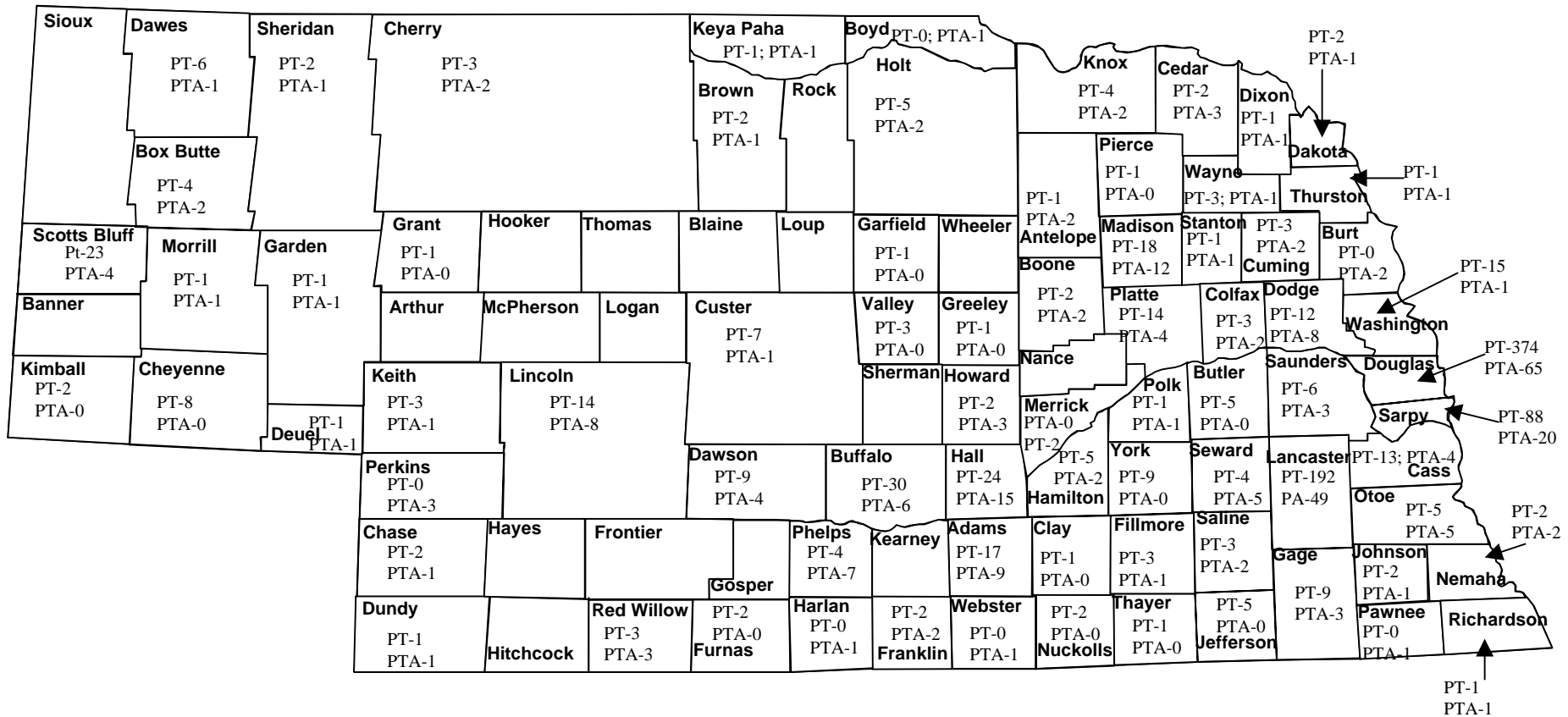
The Physical Therapy PREP Committee discussed some aspects of the physical therapy scope of practice. This decision was made because the Committee and profession knew:

- Current statutes are out-of-date. They represent the work of physical therapy but the terminology and explanations are not clear or current.
- The Nebraska Physical Therapy Association is currently deliberating about changes to pursue in the physical therapy practice act – both to the statute and the rules and regulations. It was made clear to the committee that these changes would most likely mean updating language to better clarify the physical therapy scope of practice.

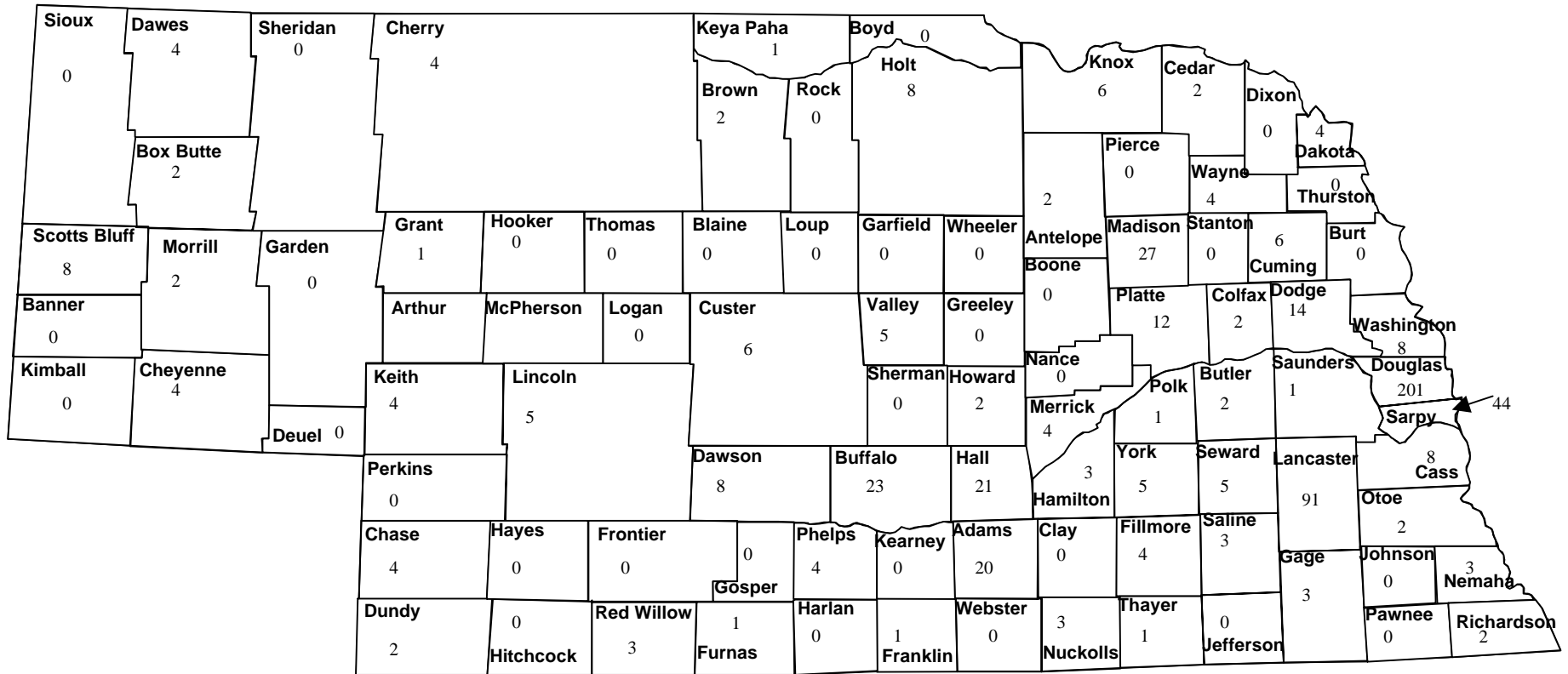
The committee acknowledges that the board is working on and will continue to work on many of the issues identified here. The committee encourages the communication between boards so that as one board finds something that works, other boards are informed.

END

PT = Physical Therapist
PTA - Physical Therapist Assistant



Physical Therapist Assistant Supervisors



Nebraska Periodic Regulatory Evaluation Process (Nebraska PREP)
For Physical Therapy
Self-Assessment SUMMARY Document

December 29, 2003

The Board of Physical Therapy members and assigned department staff completed self-assessment surveys (four of five returned). Questions answered by one or more survey participants indicating a possible concern are listed.

Questions about “Qualifications to obtain and maintain the credential – Standard for entry” concerns:

- None

Questions about “Qualifications to obtain and maintain the credential – Measure for maintaining – Continued competency/Continuing competency” concerns:

- Continuing competency appropriate and with sufficient opportunities. Best demonstrated by written comments (3 of 4 surveys had written comments): “I think there should be a portfolio review to measure continuing competency.” “Present system does not assure competency.” “The continued competency standards could be strengthened.”

Questions about “Qualifications to obtain and maintain the credential – Practitioner mobility” concerns:

- Misunderstanding of question or concern about whether regulation affects the ability of a practitioner to move from one related profession or occupation to another. Comment: “It is difficult for a practitioner to move from one related profession to another because their training is not recognized by another profession or vice versa..”

Questions about “Balance of quality of care, access to care, and cost containment” concerns:

- The regulation of physical therapy has an effect on costs of services.
- The regulation of physical therapy has an effect on availability of practitioners.
- Concern or Uncertain whether the regulation of physical therapy is based on public need.
- Concern or Uncertain about denial of third party reimbursement for services.
- Concern or Uncertain if there are differences in service quality for the same services in different locations of the State (same level of quality).
- Regulation unnecessarily restricts the public’s right to choose a preferred mode of care or service.

Questions about “Profession or occupation’s relationship with the public and other professions” concerns:

- The profession has processes in place that will link people to needed services and follow up on access to services

Continued

Questions about “Licensure issues, denials, and discipline processes” concerns:

- Information on the process for filing a complaint is easily accessible to the public and appropriate information on disciplinary actions is available to the public. Comment: “Accessible but public largely unaware of process.”

Questions about “Regulatory structure for the profession or occupation” concerns:

- Number of regulatory board members is appropriate
- Location of regulatory board meetings is optimally accessible for the majority of those who are required to attend.
- Duration of regulatory board meetings is long enough to accomplish the work but not so long as to cause unnecessary inconvenience for volunteer board members.
Comment: “Meetings tend to get long, often times w/o a lunch break.
- Compensation and reimbursement of regulatory board members is adequate.

Questions about: “Evaluating means to ensure public protection” concerns:

- Regulation of physical therapy limits individuals from other professions or occupations from providing services for which they are qualified by training and experience.
- Regulation of physical therapy limits individuals from physical therapy from providing services for which they are qualified by training.
- Regulation of physical therapy imposes unnecessary barriers to the optimum utilization of personnel.

Finocchio L J, Downer C M, McMahon T, Gragnola C M, and the Taskforce on Health Care Workforce Regulation. "Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century". San Francisco, CA: Pew Health Professions Commission, December 1995.

Pew Health Professions Commission
Taskforce on Health Care Workforce Regulation
SUMMARY OF THE TEN RECOMMENDATIONS

Recommendation 1: States should use standardized and understandable language for health professions regulated and its functions to clearly describe them for consumers, provider organizations, businesses, and the professions.

Recommendation 2: States should standardize entry-to-practice requirements and limit them to competence assessments for health professions to facilitate the physical and professional mobility of the health professions.

Recommendation 3: States should base practice acts on demonstrated initial and continuing competence. This process must allow and expect different professions to share overlapping scopes of practice. States should explore pathways to allow all professionals to provide services to the full extent of their current knowledge, training, experience and skills.

Recommendation 4: States should redesign health professional boards and their functions to reflect the interdisciplinary and public accountability demands of the changing health care delivery system.

Recommendation 5: Boards should educate consumers to assist them in obtaining the information necessary to make decisions about practitioners and to improve the board's public accountability.

Recommendation 6: Boards should cooperate with other public and private organizations in collecting data on regulated health professions to support effective workforce planning.

Recommendation 7: States should require each board to develop, implement and evaluate continuing competency requirements to assure the continuing competence of regulated health care professionals.

Recommendation 8: States should maintain a fair, cost-effective and uniform disciplinary process to exclude incompetent practitioners to protect and promote the public's health.

Recommendation 9: States should develop evaluation tools that assess the objectives, successes and shortcomings of their regulatory systems and bodies to best protect and promote the public's health.

Recommendation 10: States should understand the links, overlaps and conflicts between their health care workforce regulatory systems and other systems which affect the education, regulation and practice of health care practitioners and work to develop partnerships to streamline regulatory structures and processes.

Physical Therapy
Periodic Regulatory Evaluation Process (PREP)

Final Report

Attachment: “FSBTS Model Act” located on Web at: <http://www.fsbpt.org/>

To receive attachment: “Evaluation Criteria For Accreditation of Education Programs For the Preparation Of Physical Therapists” email:
mary.maahsbecker@hhss.ne.gov or phone: 402-471-6515.

To receive attachment: “Evaluation criteria For Accreditation Of Education Programs For The Preparation Of Physical Therapist Assistants” email:
mary.maahsbecker@hhss.ne.gov or phone: 402-471-6515.

To receive a paper copy of the final report
email: mary.maahsbecker@hhss.ne.gov or phone: 402-471-6515.